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INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

RHAYNA ROSE JONES; JACOBY JONES, JR., by and through his Guardian Ad Litem, JERMINE GENOCHIO; RYAN JONES, by and through his Guardian Ad Litem, LARHONDA REDDIC; and JADE JONES, by and through her Guardian Ad Litem, JAZALEN DAUMAS; as heirs of JACOBY JONES, Deceased,

Plaintiffs,

V.

SUNBELT RENTALS, INC.; JOHN DOE;
DC SOLAR INC.; and DOES 1-100,
Inclusive.

Defendants.

Case No. 3:22-cv-05954-AMO

**NOTICE OF MOTION AND MOTION OF
DEFENDANT/CROSS-DEFENDANT
SUNBELT RENTALS, INC. FOR
SUMMARY JUDGMENT**

Filed concurrently with Memorandum of Points and Authorities, Declaration of Riane Briones, Separate Statement of Undisputed Material Facts, Index of Exhibits, and Proposed Order

Hearing Date: June 20, 2024
Time: 2:00 p.m.
Courtroom: 10

Judge: Araceli Martínez-Olguín

TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:

22 **PLEASE TAKE NOTICE THAT** on June 20, 2024, at 2:00 p.m., or as soon thereafter as
23 counsel may be heard, in the courtroom of the Honorable Araceli Martínez-Olguín, located in the
24 San Francisco Courthouse, Courtroom 10 — 19th Floor, 450 Golden Gate Avenue, San Francisco,
25 CA 94102, Defendant Sunbelt Rentals, Inc. (“Defendant Sunbelt”) will and hereby does move this
26 Court for summary judgment pursuant to Federal Rule of Civil Procedure 56 and this Court’s
27 Local Rule 260. Specifically, on the ground that there are no triable issues of material fact, and
28 Sunbelt Rentals, Inc. is entitled to judgment as a matter of law.

1 This Motion is based on this Notice of Motion, the Memorandum of Points and
2 Authorities, Declarations, and Index of Exhibits filed concurrently herewith, all of the pleadings,
3 files, and records in this proceeding, all other matters of which the Court may take judicial notice,
4 and any argument or evidence that may be presented to or considered by the Court prior to its
5 ruling.

6
7 DATED: May 7, 2024

**MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP**

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9 By: 
10

11 David V. Roth
12 Riane Briones
13 Attorneys for Defendant, SUNBELT RENTALS,
14 INC.
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This case arises from an incident on or about September 5, 2020, where decedent Jacoby Jones collided with a stolen and subsequently abandoned dump truck on US-101 S in San Francisco. The dump truck, owned by Defendant and moving party Sunbelt Rentals, Inc. (“Defendant Sunbelt”), was rented for use by Defendant DC Solar, Inc. (“DC Solar”). The truck was stolen from a DC Solar, Inc. job site by an unidentified perpetrator, driven through the city of San Francisco, before eventually being left abandoned on the freeway. Plaintiff filed a Complaint in the Superior Court of the State of California for the County of San Francisco, which was then removed to this Court. Plaintiff alleges several causes of action, including: (1) Negligence – Wrongful Death, and (2) Negligence – Survival Action. App’x at SUN62.

As discussed further below, Plaintiff's cause of action fails given that Defendant Sunbelt had neither involvement nor any contribution to decedent's death given that it merely rented the truck to DC Solar. Defendant Sunbelt had no control, possession, or vicarious responsibility over the truck, nor control over DC Solar's use or activity over the truck to be held liable in any way for the incident. As such, summary judgement is properly entered in favor of Defendant Sunbelt.

II. STATEMENT OF MATERIAL FACTS

DC Solar rented a freightliner dump truck from Defendant Sunbelt for use at a job site located at 2171 Junipero Serra Blvd. in Daly City, California for a period beginning on September 1, 2020. The dump truck was sourced from the Defendant Sunbelt's location in San Jose. App'x at SUN18:25-SUN19:15; SUN55; SUN03.

DC Solar was in turn hired by RBI Solar to erect solar modules at the job site located at 2171 Junipero Serra Blvd. App'x at SUN20:7-10.

When employees for DC Solar arrived at the job site on or about September 1, 2020, the subject dump truck was already on site. App'x at SUN23:20-22.

On September 2, 2020, DC Solar requested pick up of the freightliner dump truck as they no longer needed it. App'x at 38:12-16.

Defendant Sunbelt has a policy where it aims to make pickups 72-hours from the time a
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1 pick up is requested, excluding weekends and holidays. App'x at SUN05:25-SUN07:15;
 2 SUN07:23-SUN08:2; SUN14:15-19; SUN15:1-2.

3 Defendant Sunbelt's San Jose location did not have hours of operation on the weekends or
 4 holidays. As such, the next available date for pickup was the following Tuesday, September 8.
 5 App'x at SUN10:18-21; SUN57.

6 Defendant Sunbelt has a policy stating that until a piece of rented equipment is back in its
 7 possession, the customer remains responsible for that rented equipment. App'x at SUN14:3-7;
 8 SUN57.

9 On September 5, 2020, the dump truck was reported by Michelle Chan to California
 10 Highway Patrol to be blocking the Number 1 lane on US-101 Northbound to I-280 around 11:30
 11 PM with its lights off. App'x at SUN50:9-SUN53:6; SUN27:18-25.

12 Decedent Jacoby Jones, Jr. (Decedent) was driving his motorcycle in the Number 1 lane
 13 when he collided with the rear of the subject dump truck in the Number 1 lane. Though an
 14 individual was witnessed on the scene of the incident following this accident prior to police
 15 arriving by Axel Andino, the driver of the dump truck could not be identified following CHP's
 16 investigation into the identity of the driver of the dump truck. App'x at SUN26:11-13, SUN28:1-
 17 15, SUN32:7-11; App'x at SUN36:10-SUN41:2, SUN41:24-SUN46:3, SUN47:7-10 .

18 On September 5, 2020, the dump truck was involved in a second and a separate third
 19 collision, following the collision with the decedent. App'x at SUN30:5-24, 22:25; SUN35:14-22.

20 On September 8, 2020, Defendant Sunbelt was dispatched to the Daly City job site where
 21 it was informed that the dump truck was not there. App'x at SUN09:9-15, SUN11:20-24.

22 Defendant Sunbelt was contacted and informed that the subject dump truck was at a tow
 23 yard and requested for the truck to be picked up. App'x at SUN12:20-SUN13:5.

24 Following the drop-off of the equipment, Defendant Sunbelt was not present at the job site.
 25 App'x at SUN59 ¶ 2..

26 Defendant Sunbelt was not responsible for work on the job site, did not do any work at the
 27 job site, and was not contracted to do work at the job site. App'x at SUN59 ¶ 5.

28 Defendant Sunbelt was not responsible for security at the job site and did not provide

1 security at the job site. App'x at SUN59 ¶ 6 and 7.

2 Defendant Sunbelt does not own the job site premises. App'x at SUN59 ¶ 3.

3 No employee, agent, or individual otherwise controlled by Defendant Sunbelt was present
4 at the subject incident involving the decedent on September 5, 2020, on US-101 to I-280. App'x at
5 SUN59 ¶ 8.

6 **III. PROCEDURAL HISTORY**

7 Plaintiff filed a Complaint against Defendant Sunbelt in the Superior Court of California
8 for the County of San Francisco on July 21, 2021, alleging a cause of action for: (1) Negligence –
9 Wrongful Death, and (2) Negligence – Survival Action. Defendant Sunbelt removed the action to
10 this Court on October 11, 2022, on the basis of diversity.

11 **IV. SUMMARY JUDGMENT STANDARD**

12 A party may obtain summary judgment “if the movant shows that there is no genuine
13 dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R.
14 Civ. P. 56(a). The party moving for summary judgment “bears the initial responsibility of
15 informing the district court of the basis for its motion, and identifying those portions of ‘the
16 pleadings, depositions, answers to interrogatories, and admissions on file, together with the
17 affidavits, if any,’ which it believes demonstrate the absence of a genuine issue of material fact.”
18 *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). Once the moving party has established the
19 absence of a genuine issue of material fact, the burden shifts to the nonmoving party to set forth
20 specific facts showing that there is a genuine issue for trial. *Anderson v. Liberty Lobby, Inc.*, 477
21 U.S. 242, 248 (1986).

22 In opposing a motion for summary judgment, it is insufficient merely to show that there is
23 “some metaphysical doubt as to the material facts.” *Matsushita Elec. Indust. Co. v. Zenith Radio*
24 *Corp.*, 475 U.S. 574, 576 (1986). The nonmoving party must show the existence of a genuine
25 issue and “produce at least some ‘significant probative evidence tending to support the
26 complaint.’” *Smolen v. Deloitte, Haskins & Sells*, 921 F.2d 959, 963 (9th Cir. 1990) (citations
27 omitted). The nonmoving party cannot merely rest upon the allegations and the pleadings. *Hansen*
28 *v. Black*, 885 F.2d 642, 644 (9th Cir. 1989).



1 **V. LEGAL ARGUMENT**

2 **A. LEGAL AUTHORITY**

3 Per the *Erie* doctrine, a federal court is required to apply state substantive law in diversity
 4 cases, such as the matter at hand. *Erie Railroad Co. v. Tompkins*, 304 U.S. 64 (1938). As such,
 5 California substantive law will apply here as set forth below.

6 “The elements of a cause of action for negligence are well established. They are ‘(a) a
 7 legal duty to use due care; (b) a breach of such legal duty; [and] (c) the breach as the proximate or
 8 legal cause of the resulting injury.’” *Ladd v. County of San Mateo* (1996) 12 Cal.4th 913, 917.

9 “[T]he existence of a duty is a question of law for the court.” *Ky. Fried Chicken of Cal. v.*
 10 *Superior Court* (1997) 14 Cal.4th 814, 819.

11 “A defendant does not owe a legal duty to protect against third party conduct, unless there
 12 exists a special relationship between the defendant and the plaintiff. In that circumstance, ‘[i]n
 13 addition to the special relationship . . . , there must also be evidence showing facts from which the
 14 trier of fact could reasonably infer that the [defendant] had prior actual knowledge, and thus must
 15 have known, of the offender’s assaultive propensities...In short, the third party’s misconduct must
 16 be foreseeable to the defendant.’” *Doe v. Los Angeles County Dept. of Children & Family Services*
 17 (2019) 37 Cal.App.5th 675, 682-683.

18 “Although causation often presents a question of fact for the jury, ‘where the facts are such
 19 that the only reasonable conclusion is an absence of causation, the question is one of law, not of
 20 fact.’” *State Dep’t of State Hosps. v. Super. Ct.* (2015), 61 Cal.4th 339, 353 (internal quotation
 21 marks omitted). “Because the factual causes of an event may be traced far into the past, the law
 22 imposes additional limitations on liability. Those additional limitations relate not only to the
 23 degree of connection between the conduct and the injury, but also to public policy.” *Steinle v.*
 24 *United States* (2021) 17 F.4th 819, 822 citing *State Dep’t Hosps.* at 353.

25 **B. PLAINTIFF’S CLAIMS ARE BARRED BECAUSE PLAINTIFFS CANNOT**
 26 **PROVE THAT DEFENDANT SUNBELT HAD ANY DUTY TO DECEDENT**

27 In the present case, the decedent collided with a dump truck owned by Defendant Sunbelt .
 28 As noted above, though the subject truck was owned by Defendant Sunbelt , it was rented to DC

1 Solar and had no association with the decedent given that aside from the presence of its truck in
 2 the lane, no employee or individual otherwise controlled by, or an agent of, Defendant Sunbelt
 3 was involved in the incident with Decedent. As such, no “special relationship” consistent with the
 4 court’s ruling in *Doe*, 37 Cal.App.5th 675, was established between the decedent and Defendant
 5 Sunbelt. Defendant Sunbelt had no interaction at all with Decedent, let alone one that would
 6 constitute a special relationship.

7 Even if such a special relationship could be somehow contemplated, there is no evidence to
 8 demonstrate that Defendant Sunbelt had “prior actual knowledge of the offender’s assaultive
 9 properties” pursuant to *Doe*. Indeed, where the perpetrator’s identity is unknown to all witnesses
 10 and even the officers who investigated the incident, there is no evidence that Defendant Sunbelt
 11 had even the faintest indication that an unidentified third party would take the dump truck from the
 12 job site and leave it in the Number 1 lane of the US-101 freeway.

13 Though the other parties may rely on *Carrera v. Maurice J. Sopp & Son*, 177 Cal.App.4th
 14 36 (2007) to establish such a duty on part of Sunbelt Rentals, Inc., the facts in this case are starkly
 15 different from those in *Carrera*. In *Carrera*, a duty could exist if special circumstances were
 16 shown, such as a sizable vehicle left unattended and available for use by persons unfamiliar with
 17 its operation. *Id.* The present case is distinguished by the fact that the dump truck in question,
 18 while owned by Defendant Sunbelt, was not in its possession, custody or control at the time of the
 19 incident. Additionally, the premises in which the truck was kept were not owned by Defendant
 20 Sunbelt, nor was Defendant Sunbelt responsible for securing that premises or job site, nor was it
 21 even present at the site in any capacity for the purposes of the job. In fact, Defendant Sunbelt was
 22 not aware that the truck was stolen from the site until it returned the following Tuesday, the next
 23 business day of operation. In *Carrera*, in contrast, the defendant owned, possessed, and controlled
 24 the tow truck in question. Furthermore, the tow truck in *Carrera* was stolen from a truck service
 25 center owned by the defendant, who was responsible for securing those premises. That is not the
 26 case here, especially considering that Defendant Sunbelt rented that truck to another party, DC
 27 Solar, who was still in possession of the subject vehicle at the time of the incident.

28 Additionally, in *Avis Rent a Car System, Inc. v. Superior Court*, 12 Cal.App.4th 221 (1993)
 5 Case No. 3:22-cv-05954-AMO

1 the California Court of Appeal held that the gap in time and space between a theft and the accident
 2 would be sufficient to nullify any duty. In *Avis* the plaintiffs brought a claim against Avis Rent a
 3 Car, alleging that it owed a duty to them to secure a vehicle that was stolen from an Avis lot and
 4 collided with the plaintiffs in a high-speed police chase after the suspects were being pursued for
 5 shoplifting. The Court of Appeal in *Avis* held:

6 Even if we were somehow to find the circumstances “special,” we would not extend the duty
 7 to this accident. The duty, if it existed, would not be perpetual and unlimited in scope. We
 8 conclude, as a matter of law, that it would not extend to this accident: (1) in another county
 (2) one week later (3) during a police chase not caused by a report of the vehicle theft.

9 12 Cal.App.4th 221, 233.

10 The above excerpt provides significant guidance in this case. Similar logic applies here
 11 even more narrowly: aside from the fact that the stolen dump truck was used, there is no evidence
 12 that Decedent’s collision and subsequent fatality were connected to Defendant Sunbelt at all, aside
 13 from the fact that the truck was owned by Defendant Sunbelt and dropped off at the Daly City job
 14 site to be used by DC Solar. As in *Avis*, Defendant Sunbelt’s duty (if any) would not extend to the
 15 subject fatality of Decedent, given that the job site was located in Daly City (San Mateo County),
 16 a different county from where the accident occurred, and was in part caused by a theft that was not
 17 Defendant Sunbelt’s responsibility to prevent.

18 Here, there was no recognized or foreseeable liability on part of Defendant for any third-
 19 party criminal conduct. Defendant Sunbelt had no way to foresee that the dump truck was going to
 20 be stolen from the job site after it was dropped off, only to be involved in a fatal collision several
 21 days later.

22 **C. PLAINTIFF’S CLAIMS ARE BARRED BECAUSE PLAINTIFFS ARE**
 23 **UNABLE TO PROVE CAUSATION TO DECEDENT DUE TO ANY**
 24 **CONDUCT BY SUNBELT RENTALS, INC.**

25 Alternatively, in the event that the lack of duty is insufficient to grant Defendant Sunbelt’s
 26 motion, there is no evidence demonstrating causation. Specifically, there is no causation with
 27 regard to any conduct by Defendant Sunbelt and Decedent’s fatality. Plaintiff will not be able to
 28 prove that but for any conduct on behalf of Defendant Sunbelt, the truck would not have been

1 stolen and ultimately driven on and abandoned on the freeway, which would have then resulted in
 2 the death of the decedent. Furthermore, the temporal gap between when Defendant Sunbelt
 3 dropped off the dump truck at the job site and when it was ultimately stolen, then abandoned on
 4 the freeway, is too large to constitute any causation on part of Defendant Sunbelt.

5 “‘The first element of legal cause is cause in fact . . . The ‘but for’ rule has traditionally
 6 been applied to determine cause in fact. The Restatement formula uses the term substantial factor
 7 ‘to denote the fact that the defendant’s conduct has such an effect in producing the harm as to lead
 8 reasonable men to regard it as a cause.’” *Mayes v. Bryan* (2006) 139 Cal.App.4th 1075, 1095,
 9 internal citations omitted.

10 “Ordinarily, proximate cause is a question of fact which cannot be decided as a matter of
 11 law from the allegations of a complaint. . . . Nevertheless, where the facts are such that the only
 12 reasonable conclusion is an absence of causation, the question is one of law, not of fact.”
Modisette v. Apple Inc. (2018) 30 Cal.App.5th 136, 152.

14 With regard to finding causation when a third party intervenes between a defendant’s
 15 alleged conduct and the plaintiff’s harm, courts have held that where there are instances of such
 16 interceding and supervening causes, that defendant is not liable, particularly where the plaintiff’s
 17 harm was not foreseeable on part of any such conduct by that defendant. The court in *Ash. v.*
North American Title Co 223 Cal.App.4th 1258, 1277 (2014) held: “Whether an intervening force
 19 is superseding or not generally presents a question of fact, but becomes a matter of law where only
 20 one reasonable conclusion may be reached.”

21 The court in *Akins v. County of Sonoma* 67 Cal.2d 185 (1967) then determined:
 22 This issue is concerned with whether or not, assuming that a defendant was negligent and
 23 that his negligence was an actual cause of the plaintiff’s injury, the defendant should be
 24 held responsible for the plaintiff’s injury where the injury was brought about by a later
 25 cause of independent origin. *This question, in turn, revolves around a determination of*
whether the later cause of independent origin, commonly referred to as an intervening
cause, was foreseeable by the defendant or, if not foreseeable, whether it caused injury of a
type which was foreseeable. If either of these questions is answered in the affirmative, then
the defendant is not relieved from liability towards the plaintiff; if, however, it is
determined that the intervening cause was not foreseeable and that the results which it
caused were not foreseeable, then the intervening cause becomes a supervening cause and
the defendant is relieved from liability for the plaintiff’s injuries.

1 *Id.* at 199 (emphasis added).

2 Then, in *Kesner v. Superior Court*, 1 Cal.5th 1132 (2016):

3 It is well established . . . that one's general duty to exercise due care includes the duty
 4 not to place another person in a situation in which the other person is exposed to an
 5 unreasonable risk of harm through the reasonably foreseeable conduct (including the
 6 reasonably foreseeable negligent conduct) of a third person.' In determining whether one
 7 has a duty to prevent injury that is the result of third party conduct, the touchstone of the
 8 analysis is the foreseeability of that intervening conduct.

9 *Id.* at 1148.

10 *Campodonico v. State Auto Parks* 10 Cal.App.3d 803 (1970) further elaborated as to what
 11 constitutes as superseding cause when the court when it stated:

12 The potential for error in the [instruction] lies in the ambiguity of the words
 13 "extraordinary" and "abnormal." These terms could be interpreted as meaning either: A.
 14 Unforeseeable (unpredictable, statistically extremely improbable, etc.); or B. Outside the
 15 scope of that which would be done by ordinary man. The instruction was correct if
 16 interpreted in sense A, since defendant's conduct would not in fact give rise to liability if
 17 the criminal act were unforeseeable. However, the instruction was incorrect if interpreted
 18 in sense B. Such an interpretation would almost invariably preclude liability for failure to
 19 police against criminal conduct, since there are very few situations indeed to which
 20 ordinary men would respond by committing serious criminal offenses.

21 *Id.* at 807 (1970).

22 Here, Defendant Sunbelt's involvement was limited to dropping off the rented dump truck
 23 at the job site, which it did not own or have the responsibility of securing, and that act could not
 24 have reasonably and foreseeably led to the chain of events that ultimately led to Decedent's death
 25 or any of the subsequent accidents that occurred that evening. Defendant Sunbelt had no other
 26 involvement with the job DC Solar rented the dump truck for, Defendant Sunbelt was not
 27 responsible for securing a job site it did not own, and was not responsible for securing a truck it
 28 was not in possession of. Given that Defendant Sunbelt had so little to do with the job and had no
 hand in securing the site, let alone any knowledge of the site itself, there is no evidence that
 Defendant Sunbelt could have foreseen the third-party criminal conduct that occurred after the
 truck was left at the job site in DC Solar's possession.

Particularly, there is no evidence to state exactly when the dump truck was stolen from the

1 job site, aside from it appearing in the freeway much later that evening. There is also a lack of
 2 evidence as to when the truck was ultimately abandoned and how long after that abandonment
 3 Decedent's death occurred. In any event, all of these events happened so long after the truck was
 4 initially dropped off at the job site on September 1, 2020, it is difficult to conclude that Defendant
 5 Sunbelt's conduct had any sliver of association with the events that followed.

6 In *Brewer v. Teano* 40 Cal.App.4th 1024, 1031 (1995) , the court emphasized:

7 "A superseding cause is an act of a third person or other force which by its intervention
 8 prevents the actor from being liable for harm to another which his antecedent negligence is
 9 a substantial factor in bringing about." If the cause is superseding, it relieves the actor from
 liability whether or not that person's negligence was a substantial factor in bringing about
 the harm.

10 Here, the unforeseeability of an unidentified third party's criminal conduct relieves
 11 Defendant Sunbelt of its liability. Specifically, there are too many variables that contributed to the
 12 ultimate fatality of the decedent between the time that the truck was dropped off by Defendant
 13 Sunbelt and when the collision and ultimately fatality of the decedent occurred. This is analogous
 14 to *Steinle v. United States*, 17 F.4th 819, 819-821 (2021), where a perpetrator fired a handgun
 15 belonging to a Bureau of Land Management Ranger that was found wrapped in a rag on a bench,
 16 striking the Plaintiff, who died from her injuries. The handgun was allegedly stolen from the
 17 ranger's vehicle four days earlier. *Id.* Regarding *Steinle*, the Ninth Circuit affirmed the District
 18 Court's decision to enter summary judgment in favor of the United States, "ruling that [the Ranger
 19 in question that the gun belonged to] owed no duty to [Plaintiff] under California law and that
 20 [his] actions were not a proximate cause of her death." *Id.* The Court held:

21 ...[T]he connection between Woychowski's storage of the pistol in his vehicle and Ms.
 22 Steinle's death is so remote that, as a matter of law, Woychowski's acts were not the
 23 proximate or legal cause of the fatal incident. Several events—many of which remain
 24 unknown—intervened after Woychowski left the loaded pistol in his vehicle: (1) someone
 25 broke into the locked vehicle; (2) someone stole a seemingly innocuous backpack; (3)
 26 someone found a pistol in that backpack; (4) someone removed the pistol from its holster,
 then wrapped it in a cloth and abandoned or lost it a half-mile away; (5) Lopez-Sanchez
 picked up the firearm, four days later, and fired it, apparently aimlessly; and (6) the bullet
 ricocheted off the ground and struck Ms. Steinle.

27 *Id.* at 822 (emphasis added).

1 The Court posits a scenario that is starkly similar to the one at issue here – the question
 2 remains as to when the truck was stolen off the job site, how and by whom, why it was abandoned
 3 in the freeway lane, and how it got there. Instead, the logical leaps required to establish a timeline
 4 fail to demonstrate causation on the part of Defendant Sunbelt.

5 The court in *Steinle* pointed to a decision of the California Court of Appeal that reached a
 6 similar conclusion. In *Shih v. Starbucks Corp.*, 53 Cal. App 5th 1063 (2020), the plaintiff sued
 7 Starbucks after spilling a cup of hot tea and suffering severe burns. While she alleged that the cup
 8 was defective, a number of other “mishaps” (per *Steinle*, 17 F.4th at 823) occurred, including the
 9 plaintiff walking to a table with the drink, putting down the drink, removing the lid, bending over
 10 the table, pushing out her chair, losing her balance, grabbing the table to avoid falling, and
 11 knowing her drink off the table. *Id.* at 1070).

12 The *Shih* court stated:

13 [Plaintiff] argues that “[B]ut for” the fact the cup was “too hot and too full” to hold[,]...Shih
 14 would not have “attempt[ed] to sip the water from the cup” in the manner she did. Instead,
 15 Shih presumably would have raised the cup to her mouth, and therefore would not have
 16 leaned forward, would not have moved the chair out from under her, would not have lost her
 balance, would not have grabbed the table, and would not have knocked her cup off the table
 and spilled hot tea on herself.

17 *But that's a lot of “would not haves,”* and because of that the alleged defects in the drink
 18 were *too remotely connected* with [Shih’s] injuries to constitute their legal cause.

19 *Id.* at 1068-69 (emphasis added).

20 Similarly, in *Wawanesa Mut. Ins. Co. v. Matlock* , 60 Cal.App.4th 583 (1997), the
 21 California Court of Appeal rejected the contention that a “Rube Goldberg-esque system of
 22 fortuitous linkages” could adequately accumulate to constitute proximate cause in particular. *Id.* at
 23 588. In that case, a minor bought two packs of cigarettes and gave one to another minor. *Id.* at 585.
 24 The two then trespassed onto a private storage facility that had stacked telephone poles on site. *Id.*
 25 While the other minor smoked, a third minor ran into him, causing him to drop the cigarette,
 26 which set fire to the poles. *Id.* Though the company that owned the poles sued the cigarette-
 27 purchasing minor for negligence, the Court of Appeal declined to find proximate cause, holding,
 28 “[T]he concatenation between [the minor’s] initial act of giving [the friend] a packet of cigarettes

and the later fire is simply too attenuated to show the fire was reasonably within the scope of the risk created by the initial act.” *Id.* at 588 (emphasis omitted). As noted by *Steinle*, referencing *Wawanese*, “There was ‘simply too much fortuity in the chain.’” *Steinle*, 17 F.4th at 823 citing *Wawanese* at 589 (emphasis added).

Taking into consideration the cases above, the Court in *Steinle* noted that there were too many “what-ifs” that broke the chain of causation between the defendants and plaintiff’s harm. In *Wawanesa*, it was the “unanticipated ‘but-fors’” that damaged the plaintiff’s property. In *Shih*, it was the “quickly-sequenced mishaps between the design of the Starbucks cup and the serious burns suffered by the Plaintiff.” In the *Steinle* decision itself, the plaintiff’s death “[had] only a tenuous connection to Woychowski’s storage of the pistol; the criminal and negligent actions of at least two other people intervened between those two events.” *Steinle*, 17 F.4th at 823-824.

Here, too, there are too many unaccounted-for, unknown, and intervening factors that make it difficult to trace back any proximate cause to Defendant Sunbelt between the time the truck was dropped off and almost five days later, when the collision that resulted in the death of Decedent occurred. This is merely another cause of a tenuous connection that is too remote to establish causation when an unidentified perpetrator and even Decedent's own possible negligence were intervening and superseding factors.

D. ALTERNATIVELY, IF LIABILITY IS FOUND ON PART OF SUNBELT RENTALS, INC. DAMAGES ARE LIMITED TO \$15,000.00

In the case that any liability is found on part of Defendant Sunbelt, either through causation or duty, Defendant Sunbelt maintains that any liability it has to Plaintiff in this matter is limited by California law, specifically California Vehicle Code section 17151(a), which provides:

The liability of an owner, bailee of an owner, or personal representative of a decedent imposed by this chapter and not arising through the relationship of principal and agent or master and servant *is limited to the amount of fifteen thousand dollars (\$15,000) for the death of or injury to one person in any one accident* and, subject to the limit as to one person, is limited to the amount of thirty thousand dollars (\$30,000) for the death of or injury to more than one person in any one accident and is limited to the amount of five thousand dollars (\$5,000) for damage to property of others in any one accident.

(emphasis added)

1 As such, in the event that there is liability against Defendant Sunbelt as an owner of the
 2 subject rented vehicle, it is only liable for damages only in the amount of \$15,000, especially in
 3 light of the fact there is no such relationship in this case such as the ones aforementioned in the
 4 California Vehicle Code.

5 **VI. CONCLUSION**

6 There has yet to be any substantive evidence that can succinctly pinpoint when and where
 7 and if those events actually happened. What remains undisputed, proven, and true is that beyond
 8 Defendant Sunbelt dropping off the dump truck on September 1, 2020, is that it had no other
 9 involvement with the job site or the truck itself. In this case, Defendant Sunbelt merely rented the
 10 piece of equipment to DC Solar, after which it did nothing else.

11 Foreseeability is not limitless. “An act must be sufficiently likely before it may be
 12 foreseeable in the legal sense. That does not mean simply imaginable or conceivable. Given
 13 enough imagination, everything is foreseeable. To paraphrase Justice Eagleson, with apologies to
 14 Bernard Witkin, on a clear judicial day, you can foresee forever.” *Jefferson v. Qwik Corner*
 15 *Market, Inc.*, 28 Cal.App.4th 990, 996 (1994) (citing *Thing v. La Chusa*, 48 Cal.3d 644, 668
 16 (1989)). Perhaps here the other parties may ask the court to “foresee forever,” but to do so would
 17 be misguided. Rather, in this case, there is a limit to the conduct Defendant Sunbelt could foresee
 18 and that foreseeability does not go beyond its renting of the vehicle to DC Solar on September 1,
 19 2020.

20 Furthermore, there is a large pool of “what-aboutisms” to choose from, with a number of
 21 unknown factors and unidentified actors and perpetrators, but what remains clear is that those
 22 intervening and superseding events and actors all cumulate to break the chain of causation
 23 between Defendant Sunbelt and Decedent’s accident. “To simply say . . . that the defendant’s
 24 conduct was a necessary antecedent of the injury does not resolve the question of whether the
 25 defendant should be liable.” *PPG Indus., Inc. v. Transamerica Ins. Co.*, 20 Cal.4th 310, 315
 26 (1999). “However the test is phrased, causation in fact is ultimately a matter of probability and
 27 common sense.” *Osborn v. Irwin Memorial Blood Bank* (1992) 5 Cal.App.4th 234, 253.

28 As such, for the reasons set forth above, Defendant Sunbelt respectfully requests that the

1 Court grant its motion for summary judgment.

2
3 DATED: May 7, 2024

MANNING & KASS
4 ELLROD, RAMIREZ, TRESTER LLP

5 By:
6

7 
8 David V. Roth
Riane Briones
9 Attorneys for Defendant, SUNBELT RENTALS,
10 INC.
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CERTIFICATE OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of San Francisco, State of California. My business address is One California St., Ste 900, San Francisco, CA 94111.

On May 7, 2024, I served true copies of the following document(s) described as **NOTICE OF MOTION AND MOTION OF DEFENDANT/CROSS-DEFENDANT SUNBELT RENTALS, INC. FOR SUMMARY JUDGMENT** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on May 7, 2024, at San Francisco, California.

Deborah Billingsley

1 **SERVICE LIST**

2 **Rhayna Rose Jones, et al. v. Sunbelt Rentals, Inc., et al.**

3 **Case No. 3:22-cv-05954-AMO**

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